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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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Wayne Holland

① Pam is working with Bank on
an Evergreen Clause when that's
in order we'll go forward.

② mean time, we have to retain
the C.C. pending acquisition
of a good ILOC for \$148K.

203-1-66

January 30, 1990

TO: Lowell P. Braxton, Associate Director
THRU: Wayne Hedberg, Permit Supervisor *WH*
FROM: Holland Shepherd, Reclamation Specialist/Permit Lead *HWS*
RE: Nuclear Fuels Services, Reclamation Surety, M/017/001, Garfield County, Utah

The Board approved the form and amount of surety on January 24, 1990, for the \$148,000 Irrevocable Letter of Credit (ILOC), supporting the Tony M site. The approval was made with the stipulation that language in the Reclamation Contract would have to be changed to protect the Division from losing the surety via a missed or overlooked expiration date.

I later spoke to Barbara Roberts about the ILOC and the Reclamation Contract. She indicated it would be better to change the language on the ILOC to include an "Evergreen Clause." Such language discusses an automatic turnover and timeframe.

If language in the Reclamation Contract is changed instead, this poses two problems: 1) past experience has proven that changing the Reclamation Contract is a long drawn-out process; 2) this still puts the burden on the Division to track the ILOC on an annual basis. If we determine that the operator has not renewed the ILOC, we need to act fast to obtain the money, given the number of hoops necessary to jump through before it becomes legitimately forfeited. This type of speed is not a forte of the Division. If we fail to act quickly, we are out \$148,000.

I have attached a copy of the ILOC and the Reclamation Contract to this memo for your information. Barbara indicated to me that she would talk to Jim Carter, the Board member who discussed changing the Reclamation Contract, about changing the ILOC instead.

I am, at this point, waiting for a verdict before continuing with this. The current \$187,000 expires February 5, 1990 and we will need to have something acceptable on hand before releasing it.

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Memo
M/017/001
January 30, 1990

I have highlighted some language on the ILOC that will have to be changed. Also, I will need to know if we should include the two government agencies (DOGM and BLM) as beneficiaries on an amended ILOC.

Pam has suggested putting together a policy for future ILOC's. I support this idea for ILOC's and other types of surety which might complicate the surety process.

jb
Enclosure
cc: Pam Grubaugh-Littig
MN4/103-104

24 '90 15:41

FROM NCNB INTL L/C

PAGE.002

Documentary Letter of Credit

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NCNB National Bank of North Carolina
Charlotte, NC 28255
Answerback NCNB Bank
Telex Number 669-988
or 669-985

Important
Please mention this
number in all
correspondence

Page 1 of 1

ISSUE DATE 24 JAN 90
L/C NUMBER 36781

APPLICANT
NUCLEAR FUEL SERVICES, INC.
205 BANNER HILL ROAD
ERWIN, TN 37650
ATTN: DWIGHT FERGUSON

EXPIRY DATE / PLACE

31 DEC 90 CHARLOTTE, NC

BENEFICIARY
UTAH BOARD OF OIL, GAS AND MINING
355 WEST NORTH TEMPLE
3 TRIAD CENTER, SUITE 350
SALT LAKE CITY, UT 84102-1203

CURRENCY AMOUNT
USD *****148,000.00

We hereby issue this irrevocable letter of credit in your favor which is available at sight by drafts drawn on NCNB National Bank of North Carolina, Charlotte, NC 28255 bearing the clause drawn under Irrevocable Letter of Credit 36781 accompanied by:

BENEFICIARY'S WRITTEN AND SIGNED STATEMENT THAT THE DRAWING IS DUE TO A DETERMINATION MADE UNDER AND PURSUANT TO THE PROVISIONS OF SECTION 48-B-14(7), UTAH CODE ANNOTATED, (1953, AS AMENDED) THAT NUCLEAR FUEL SERVICES, INC. HAS FAILED TO CARRY OUT ITS LAND RECLAMATION RESPONSIBILITIES AS DESCRIBED IN MINING AND RECLAMATION PLAN NO. ACT/01/001.

PARTIAL DRAWINGS ARE PERMITTED.

Documents to be forwarded to NCNB National Bank of North Carolina One NCNB Plaza, International Dept, 721-2, Charlotte, NC 28255, in one mail.
Subject to UCP400.
ISSUED BY MAIL

We hereby engage with the bona fide holders of all drafts drawn under and in compliance with the terms of this L/C that such drafts will be duly honored upon presentation to us. This is the operative instrument to be acted on.
This is IRREVOCABLE Letter of Credit number 36781 issued on 24 JAN 90 by NCNB National Bank of North Carolina, Charlotte, NC 28255 USA.

Inclusion of Evergreen Clause

NCNB National Bank of North Carolina

Authorized Signature

ADVISING BANK COPY